



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,757	12/14/2001	Scott W. Corzine	10010430-1	2523

7590 12/06/2004
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

PRITCHETT, JOSHUA L

ART UNIT	PAPER NUMBER
----------	--------------

2872

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/022,757

Applicant(s)

CORZINE ET AL.

Examiner 571-272-2318

Joshua L Pritchett JP

Art Unit

2872

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 26.Claim(s) objected to: 20,22 and 24.Claim(s) rejected: 12-19,21,23 and 25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


DREW A. DUNN
SUPERVISORY PATENT EXAMINER

Continuation of 5. The applicant argues in the Amendment filed November 12, 2004 that the Stankus reference fails to teach the claimed support wall. The applicant cites col. 8 lines 5-10 in Stankus which states, "the sidewall spacer 70 is any material that can be etched selectively to the layers 62-68 and the substrate 12." The examiner notes that the sidewall spacer of Stankus "can be" etched, Stankus does not state that the sidewall spacer "must be" etched. Therefore the sidewall spacer of Stankus may remain as part of the structure and the claim limitations read on the Stankus reference. The applicant further argues that the Stankus reference does not teach or suggest the use of a GaAs-air Bragg reflector. The applicant argues that the layers 62-68 of Stankus are made of a material and that "a material" does not include the likes of a gas, liquid or vacuum. The examiner considers air to be a material because it consists of matter, which is the definition of material (Webster's Collegiate Dictionary Tenth Edition). Stankus states that, "the layers 62-68 may comprise any material... that provides proper Bragg reflection properties." The examiner supplements the teachings of Stankus with that of Ho that states that GaAs-air is a known combination of materials used to create a Bragg reflector.